

**REVISED  
AGENDA  
FREMONT REDEVELOPMENT AGENCY SPECIAL MEETING  
WEDNESDAY, AUGUST 24, 2011  
5:00 P.M. (Please Note Time)**

**TELECONFERENCE NOTICE**

*Pursuant to Government Code Section 54953, Subdivision (b), the following Council meeting will include teleconference participation by Councilmember Harrison from:  
2365 Kaanapali Parkway, Room 689, Lahaina, Maui, Hawaii 96761*

**1. CALL TO ORDER**

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the Redevelopment Agency and will be enacted by one motion and one vote. There will be no separate discussion of these items unless an Agency Member or citizen so requests, in which event the item will be removed from the Consent Calendar and considered in its normal sequence on the agenda. Additionally, other items without a "Request to Address the Redevelopment Agency Board" card in opposition may be added to the consent calendar. (In the report section of the agenda, consent items are indicated by an asterisk.)*

*2.1 Approval of Minutes – None.*

**3. PUBLIC COMMUNICATIONS**

3.1 Oral and Written Communications

**4. PUBLIC HEARINGS – None.**

**5. OTHER BUSINESS**

5.1 Report Out from Closed Session of Any Final Action

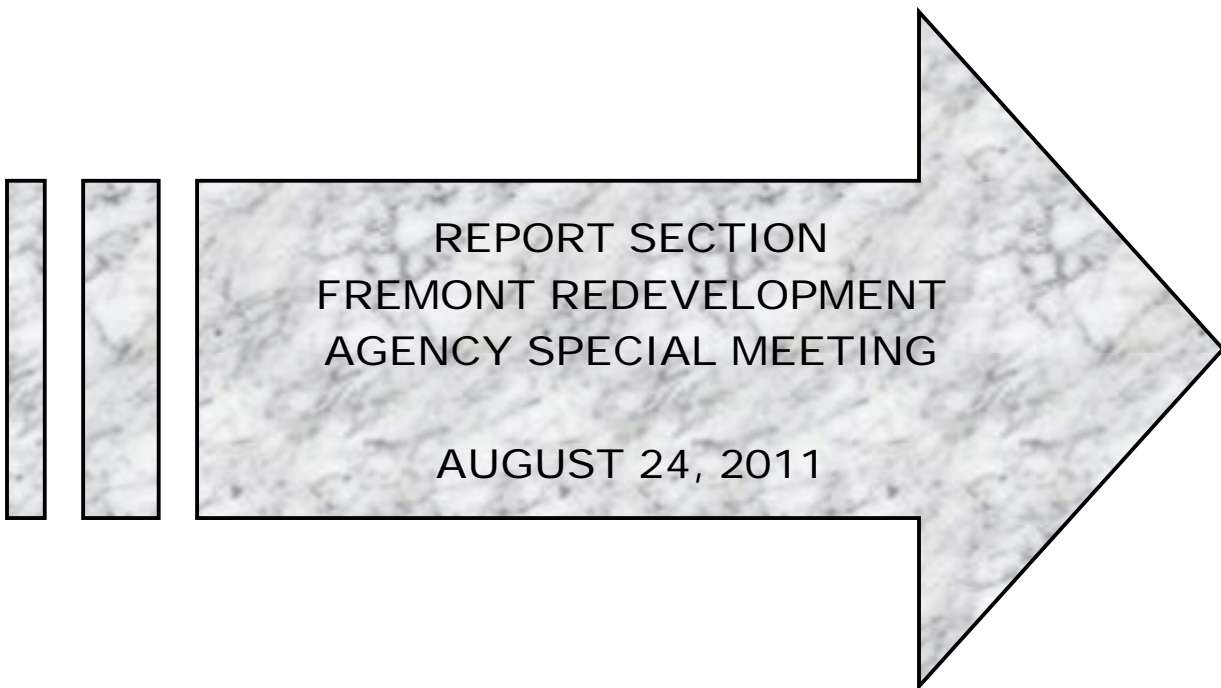
5.2 **ADOPTION OF ENFORCEABLE OBLIGATIONS PAYMENT SCHEDULE**  
Adoption of the Redevelopment Agency's Enforceable Obligations Payment Schedule (EOPS)

Contact Person:

Name:	Irene de Jong	Elisa Tierney
Title:	Redevelopment Business Manager	Redevelopment Director
Dept.:	Housing and Redevelopment	Housing and Redevelopment
Phone:	(510) 494-4510	(510) 494-4501
E-Mail:	idejong@fremont.gov	etierney@fremont.gov

RECOMMENDATION: Adopt a resolution adopting under protest and with reservation an EOPS pursuant to Part 1.8 of the California Community Redevelopment Law. Authorize the Agency Executive Director to comply with noticing and other requirements associated with the EOPS, including but not limited to filing the EOPS Notice.

**6. ADJOURNMENT**





## **5.1 Report Out from Closed Session of Any Final Action**

## 5.2 ADOPTION OF ENFORCEABLE OBLIGATIONS PAYMENT SCHEDULE

### Adoption of the Redevelopment Agency's Enforceable Obligations Payment Schedule (EOPS)

#### Contact Person:

Name:	Irene de Jong	Elisa Tierney
Title:	Redevelopment Business Manager	Redevelopment Director
Dept.:	Housing and Redevelopment	Housing and Redevelopment
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**Executive Summary:** ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “Voluntary Program Act”) (together, the “Redevelopment Restructuring Acts”), became effective between June 28 and June 30, 2011. The Dissolution Act first immediately suspended all new redevelopment activities and incurrence of indebtedness, and purported to dissolve redevelopment agencies, effective October 1, 2011. The Voluntary Program Act allowed redevelopment agencies to avoid dissolution under the Dissolution Act if their sponsoring community opted into an “alternative voluntary redevelopment program” (the “Voluntary Program”) that requires annual contributions to local schools and special districts. On July 19, 2011, the City enacted an ordinance to participate in the Voluntary Program and exempt the Redevelopment Agency of the City of Fremont (the “Agency”) from the requirements of the Dissolution Act.

The League of California Cities, the California Redevelopment Association, and other petitioners challenged the validity and constitutionality of the Redevelopment Restructuring Acts in mid-July 2011. On August 11, 2011, the California Supreme Court (the “Supreme Court”) agreed to review the matter and stayed the effectiveness of much of the Redevelopment Restructuring Acts pending resolution of this litigation. Because the Supreme Court stayed the Voluntary Program Act in its entirety, it is possible that the City may currently be prevented from participating in the Voluntary Program. While much of the Dissolution Act has also been stayed and redevelopment agencies will not be dissolved on October 1, 2011, unstayed provisions of the Dissolution Act arguably require redevelopment agencies to adopt, before August 29, 2011, an enforceable obligations payment schedule (the “EOPS”) that lists all of their financial obligations. If the Agency does not timely adopt an EOPS, it may be unable to make payments on its obligations after August 28.

The Dissolution Act requires redevelopment agencies to adopt an EOPS listing all of their obligations within sixty (60) days of the effectiveness date of the Dissolution Act. Assuming that the Dissolution Act became effective on the earliest possible date – June 28, 2011 – the EOPS must be adopted on or before Saturday, August 27, 2011. Under standard rules of statutory interpretation, this deadline would be extended to the next business day – Monday August 29, 2011. While redevelopment agencies whose sponsoring communities opted into the Voluntary Program were thought to be exempt from the requirements of the Dissolution Act, including the requirement to adopt an EOPS, the Supreme Court has thrown this into question.

The Supreme Court responded to the petition challenging the legality of the Redevelopment Restructuring Acts on August 11, 2011. The Supreme Court order appears to stay all of the Voluntary

Program Act and most of the Dissolution Act. This would have the effect of freezing the status quo pending resolution of the litigation; agencies would no longer be dissolved on October 1, 2011, but they would also be prevented from opting into the Voluntary Program and conducting new redevelopment activities. To this end, certain portions of the Dissolution Act remain effective, including those sections suspending most agency activities. Moreover, the unstayed provisions also include language that added Section 34167(h) to the Health and Safety Code. This Section states that, after the date sixty (60) days after the effective date of the legislation, an agency cannot make a payment on any obligation unless it is listed on an adopted EOPS. There is an exception in Section 34167(h) for bond payments that would allow agencies without an adopted EOPS to continue to make payments on bonded indebtedness. Taken together, even though the City opted into the Voluntary Program on July 19, 2011, the Agency may not be able to make routine loan payments or other payments after August 28, 2011 unless it adopts an EOPS.

Staff recommends the Agency adopt an EOPS under protest and with reservations to avoid defaulting on its enforceable obligations after August 28, 2011. The EOPS must list all of the Agency's enforceable obligations and must include the following information for each obligation:

- Project name associated with the obligation
- Payee
- Description of the nature of the work, product, service, facility or other thing of value for which payment is to be made
- Payments the Agency is obligated to make, by month, through December 2011
- The payment schedules for issued bonds may be aggregated and the payment schedules for payments to employees may be aggregated.

The EOPS must be adopted at a public meeting and there are no special notice requirements. Once adopted, it must be posted on the Agency's website. The EOPS must also be transmitted to the State Department of Finance, State Controller and County Auditor-Controller; however, notification providing the website location of the adopted EOPS is sufficient for this transmittal. Therefore, the Agency should prepare a notice (the "EOPS Notice") notifying the necessary parties regarding the Agency's adoption of an EOPS. The Agency can make any necessary amendments to the adopted EOPS at any of its public meetings.

**FISCAL IMPACT:** Adoption of Redevelopment Agency's EOPS will allow the Agency to continue to make payments of its enforceable obligations.

**ENVIRONMENTAL REVIEW:** The review and action taken by the Agency is exempt under Section 15378(b)(4) of the California Environmental Quality Act ("CEQA") in that the activity is not defined as a "project," but instead is an action required to continue a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The appropriate environmental review will be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program. A Notice of Exemption will be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Enforceable Obligation Payment Schedule](#)
- [EOPS Notice](#)

**RECOMMENDATION:** Adopt a resolution adopting under protest and with reservation an EOPS pursuant to Part 1.8 of the California Community Redevelopment Law. Authorize the Agency Executive Director to comply with noticing and other requirements associated with the EOPS, including but not limited to filing the EOPS Notice.